

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No 321 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE H.H.MEHTA

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1. Whether Reporters of Local Papers may be allowed : YES
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

STATE OF GUJARAT

Versus

DIMPALBHAI DINESHBHAI SHAH

Appearance:

Mr. B.Y. Mankad A.P.P. for Petitioner
NOTICE SERVED for Respondent No. 1
Mr. Ashim Pandya for HL PATEL ADVOCATES
for Respondent No. 2

CORAM : MR.JUSTICE H.H.MEHTA

Date of decision: 09/11/2000

ORAL JUDGEMENT

#. This is a Criminal Revision Application filed by the
State under section 397 read with section 401 of Criminal

Procedure Code 1973 (hereinafter referred to as Cr.P.C.) challenging the judgment dated 23.3.1999 rendered by the learned Additional Sessions Judge, Surat (who will be referred to as the learned Appellate Judge for the sake of convenience and brevity) in Cri. Appeal No. 9 of 1999.

Here in this Criminal Revision Application the revision opponents nos 1 and 2 were opponents before the Collector, Surat in Case No. F/Supply/Enforcement Case No. 2.327 of 1998-99.

#. The facts leading to the present Criminal Revision Application in a nut shell are as follows:

The present revision opponent no.2 Dinesh Nagindas Shah is an owner of tanker No. MH 04 H 7352; whereas revision opponent no.1 Dimpalbhai Dineshbhai Shah is doing the management of the affairs of said tanker. The revision opponent no.1 is a son of revision opponent no.2.

2.1 That on or about 29.6.1998 the aforesaid tanker was found in a parked condition near Swaminarayan Industrial Estate in village Tathitheya. Palsana Taluka in Surat district. The Inspector found that the tanker was in suspicious condition and therefore, he made an inquiry from Irshad Mubarakali and Vijay Indrapal Pal the driver and cleaner of the said tanker respectively. On interrogation of the said two persons, it was found that quantity of 12000 liters of diesel was brought by the tanker from Indian Oil Corporation Depot., Wadala, Bombay and from that quantity of diesel 4000 liters was to be given to a mill at Pandesara. There were three compartments in the tanker. The first and third compartments were found empty and the compartment no.2 of the tanker was found to have contained diesel in quantity of 4000 liters. Thereafter, after making necessary inquiry, it was found that both the opponents had contravened the provisions of Gujarat Essential Commodities (Licence Control & Stock Declaration) Order 1981. It was also found that they have contravened the provisions of Motor Spirit and High Speed Diesel (prevention and Mal practices in Supply and Distribution) order 1990. Both types of contraventions are punishable u/s 7 of the Essential Commodities Act 1955. The Inspector seized the diesel of quantity of 4000 liters from the said tanker. On the basis of the report submitted by the Inspector, the Collector, Surat conducted a case and ultimately he passed an order dated 13.1.1999 whereby he has confiscated the diesel of the

quantity of 4000 liters seized from the tanker.

#. Being aggrieved against and dissatisfied with the said order dated 13.1.1999, passed by the Collector, Surat, present revision opponents had preferred Criminal Appeal being Criminal Appeal No. 9 of 1999 to the Sessions Court, Surat. The learned Additional Sessions Judge, Surat (who will be referred to as the learned Appellate Judge), after hearing the learned advocates for the parties, rendered his judgment dated 23.3.1999 in the said Criminal Appeal No. 9 of 1999 and by that judgment, the appeal of the present-revision opponents was allowed. By that order, the learned Appellate Judge also directed the concerned department to hand over the possession of diesel of 4000 liters to the appellants.

#. Being aggrieved against and dissatisfied with the said judgment dated 23.3.1999 rendered in Criminal Appeal No. 9 of 1999, the State Government has preferred this present Criminal Revision Application.

#. I have heard Mr. B.Y.Mankad, learned APP for the revision petitioner-State Government and Mr.Ashim Pandya learned advocate for the revision opponents.

#. I have gone through the judgment which is challenged in this present criminal revision application. During the course of arguments Mr. B.Y.Mankad has argued that the learned Appellate Judge has not assigned any reason for allowing the appeal preferred by the present revision opponents. On reading the impugned judgment which is challenged in this present revision application, it is found that the learned Appellate Judge has detailed the facts of the case in his Judgment. In para 6, he was required to give reasons, he has not given any reason to arrive at his judicial decision. Under the circumstances, the judgment is not correct and proper though the learned Appellate Judge had jurisdiction. He has not exercised the jurisdiction properly. In judicial matters, the judicial authority is required to assign the reasons for coming to a particular decision. Here in this case the finding of the Appellate Judge is non speaking order without any reasons and therefore the impugned order is bad in law and cannot be said to be correct and proper. Therefore, it requires to be set aside.

#. During the course of arguments Mr. B.Y.Mankad for the revision petitioner i.e. State argued that this is a fit case in which the matter is required to be remanded to the learned Appellate Judge, giving suitable

directions.

#. In view of the discussions made hereinabove, this court is of the view that this present Criminal Revision Application deserves to be allowed and accordingly it is allowed. The impugned judgment dated 23.3.1999 rendered by the learned Additional Sessions Judge, Surat in Criminal Appeal No. 9 of 1999 is hereby set aside. Said Criminal Appeal No. 9 of 1999 is ordered to be remanded to the learned Additional Sessions Judge, Surat with a direction that said Criminal Appeal No. 9 of 1999 be heard and decided afresh by affording full opportunity of being heard to both the parties within two months from the date of receipt of the writ of this Court without being influenced by this order. Rule is made absolute to that extent. Interim order of suspension of impugned order vide order dated 28.9.1999 of this Court (Coram: C.K.Buch-J) is vacated forthwith.

(H.H.Mehta.J)

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